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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 04-115
FM Table of Allotments, FM Broadcast Stations	)	RM-10926
(Huntsville, Missouri)	)	

TO: Audio Division

MOTION FOR LEAVE TO FILE A REPLY TO REPLY COMMENTS

KIRK, L.L.C. (hereinafter "KIRK"), by its attorney, hereby respectfully requests leave to file this Reply to the "Reply Comments" filed in this proceeding by the American Family Association, Inc. (hereinafter "AFA"), on June 9, 2004. In support thereof, it is alleged:

1. This proceeding involves an attempt by AFA to have Channel 278C2 at Huntsville, Missouri reclassified as a noncommercial, educational channel. In Comments filed on May 14, 2004, KIRK showed that an alternative channel is available in the reserved portion of the band; and that, accordingly, Channel 278C2, which is in the commercial portion of the band, may not be reserved for educational use.

2. Under date of June 9, 2004, AFA filed Reply Comments. In those Comments, AFA states, in pertinent part, as follows:

> "Kirk's Comments in opposition to the reservation of Channel 278C2 at Huntsville, Missouri for noncommercial are based upon engineering assumptions that cannot be proven and would not be accepted by the Commission for licensing. Kirk disputes AFA's technical preclusion showing, arguing that Channels 204 and 206 are available

> for noncommercial service. However to make those channels work Kirk proposes antenna radiating 1 kw horizontal power and 25.5 kw vertically. Such an antenna does not conform with the Commission's standards of engineering proof."

3. The Commission's Rules do not provide for the filing of replies to reply comments. In this instance, however, AFA happens to be wrong. In fact, it is demonstrably wrong. Under these circumstances, considerations of simple justice and equity require that KIRK be afforded an opportunity to respond to AFA's Reply Comments, and show that AFA is in error.

4. The alternate facilities, proposed in KIRK's Comments, will utilize elliptical polarization, *i.e.*, more power will be radiated in the vertical plane than in radiated in the horizontal plane. The reason for this is to afford the required protection to Channel 6, as specified in §73.525(e)(1)(iii) and §73.525(b)(4) of the Commission's Rules and Regulations. For the same reason, the proposed facilities will utilize directional antennas.

5. An agency is bound by its own Rules. *Service v. Dulles*, 354 U. S. 363, 77 S. Ct. 1152, 1 L. Ed. 2d 1403 (1957). Accordingly, if the proposed facilities comply with the Rules, the Commission will have to grant applications for those facilities. In this instance, AFA doesn't dispute that the proposed alternative facilities will comply with the Rules; it merely says, vaguely, that, "Such an antenna [an antenna with elliptical polarization] does not conform with the Commission's standards of engineering proof."

6. In truth, antennas are readily available which will develop the pattern and polarization characteristics specified in KIRK's Comments. Contrary to AFA's suggestion, the antennas will not radiate 1 kW in the horizontal plane. Rather, they will

radiate 1 W in the horizontal plane and 25.5 kW vertically. Antennas conforming to these characteristics are readily available from commercial manufacturers and have been certified to the Commission and form the basis for authorization issued by the Commission.

7. Attached hereto, and marked Exhibit A, is a copy of an excerpt from the Commission's engineering database for Station WDQV(FM), a noncommercial educational station, operating in the reserved portion of the band at Mackinaw City, Michigan. Attached and marked Exhibit B is a partial copy of the license actually issued for Station WDQV. Attached and marked Exhibit C is a copy of the antenna manufacturer's certification, which accompanied the application for a license for Station WDQV, and resulted in the issuance of a license to Broadcast Music Ministries, Inc. for that station. As can be seen, Station WDQV operates on Channel 203 at Mackinaw City, Michigan, using an effective radiated power of 0.001 W in the horizontal plane (1 W), and 20 kW in the vertical plane. As can also be seen, the Commission has granted WDQV a license, on a routine basis. Finally, as can be seen, WDQV utilizes an antenna manufactured by Systems With Reliability, LTD (hereinafter "SWR"), and that antenna was certified to comply with all of the Commission's requirements, and the Commission accepted the certification.

8. Thus, to summarize, AFA is simply wrong. The alternative allotments proposed by KIRK in the reserved portion of the band comply entirely with the Commission's Rules and Regulations. Furthermore, equipment is readily available to implement those allotments. Therefore, Channel 278C2 at Huntsville, Missouri does not qualify for reclassification as a reserved channel.

Respectfully submitted,

June 18, 2004

KIRK, L.L.C.

Law Office of
LAUREN A. COLBY
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113

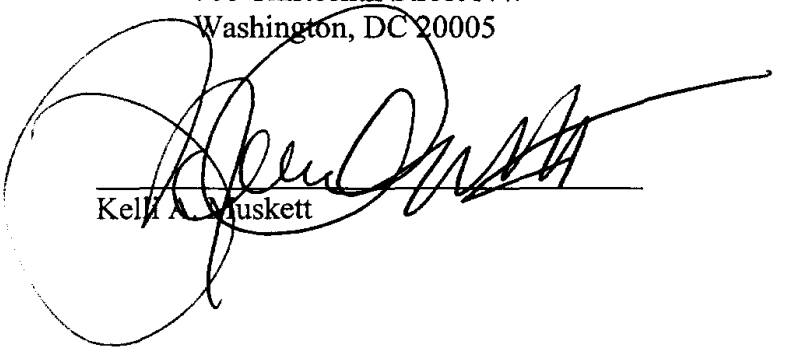
By: _____
Lauren A. Colby
Its Attorney

CERTIFICATE OF SERVICE

I, Kelli A. Muskett, a secretary in the law office of Lauren A. Colby, do hereby certify that copies of the foregoing have been sent via first class, U.S. mail, postage prepaid, this 18th day of June, 2004, to the offices of the following:

Peter J. Vaughn, Esquire
General Counsel
American Family Association
Post Office Drawer 2440
Tupelo, Mississippi 38803

John R. Wilner, Esquire
Counsel for Best Broadcasting, Inc.
Bryan Cave, LLP
700 Thirteenth Street NW
Washington, DC 20005



Kelli A. Muskett

Callsign: WDQV **Service:** FM **Community:** MACKINAW CITY, MI, US

Licensee: BROADCAST MUSIC MINISTRIES, INC.

Class: C2 **Channel:** 203 **Freq:** 88.5 MHZ

File No.: BLED-20030407ACF **Dom. Status:** LIC **Main/Aux:**

Rule 73_215: N **Cutoff Date:** **Docket Number:**

Facility ID: 89513 **Application ID:** 652825 **ASRN:** 1000700

Latitude:	N	45°	40 '	0 "
Longitude:	W	84°	38 '	5 "

	Horizontal	Vertical
ERP:	0.001	20 kw
HAAT:	131	131 m
RCAMSL:	338	338 m
RCAGL:	97	97 m

Near Canada

Antenna:
Directional No beam tilt

Rotation: 0
Antenna ID: 34942 **Make:** ODD **Model:** FORM 340

Antenna Pattern for the Directional Antenna:

Directional antenna relative field values do not include clockwise rotation, if shown above.

0°	1	10°	1	20°	1	30°	1	40°	1	50°	1
60°	1	70°	0.8	80°	0.64	90°	0.51	100°	0.41	110°	0.368
120°	0.368	130°	0.368	140°	0.368	150°	0.41	160°	0.51	170°	0.64
180°	0.8	190°	1	200°	1	210°	1	220°	1	230°	1
240°	1	250°	1	260°	1	270°	1	280°	1	290°	1
300°	1	310°	1	320°	1	330°	1	340°	1	350°	1

Additional Azimuths:

225°	1	45°	1	315°	1	135°	0.368

EXHIBIT A

United States of America

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST STATION LICENSE

Authorizing Official:

Official Mailing Address:

BROADCAST MUSIC MINISTRIES, INC.
SUITE 7
300 MILL STREET
CHEBOYGAN MI 49721

Arthur E. Doak
Senior Engineer
Audio Division
Media Bureau

Grant Date: April 15, 2003

This license expires 3:00 a.m. local time, October 01, 2004.

Facility Id: 89513

Call Sign: WDQV

License File Number: BLED-20030407ACF

This license covers Permit No.: BPED-20000121ABS

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Name of Licensee: BROADCAST MUSIC MINISTRIES, INC.

Station Location: MI-MACKINAW CITY

Frequency (MHz): 88.5

Channel: 203

Class: C2

Hours of Operation: Unlimited

EXHIBIT B

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Transmitter output power: 7.0 kW

Antenna type: Directional

Description: SWR FM10V/2 DA, two sections

Antenna Coordinates: North Latitude: 45 deg 40 min 00 sec

West Longitude: 84 deg 38 min 05 sec

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW):	.00100	20.0
Height of radiation center above ground (Meters):	97	97
Height of radiation center above mean sea level (Meters):	338	338
Height of radiation center above average terrain (Meters):	131	131

Antenna structure registration number: 1000700

Overall height of antenna structure above ground (including obstruction lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

1 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.

2 The relative field strength of neither the measured horizontally nor vertically polarized radiation component shall exceed at any azimuth the value indicated on the composite radiation pattern authorized by Construction Permit BPED-20000121ABS.

A relative field strength of 1.0 on the composite radiation pattern authorized by Construction Permit BPED-20000121ABS corresponds to the following effective radiated power:

20 kilowatts

Principal minima and their associated field strength limits:

110 - 140 degrees True: 2.70 kilowatts

3 The licensee has demonstrated compliance with the FCC radiofrequency electromagnetic field exposure guidelines based on the use of the facilities specified herein. If the licensee makes any changes in the facilities via modification of license application in accordance with 47 C.F.R. Section 73.1690(c), the subsequent FCC Form 302-FM, Application for License, must include a revised RF field showing to demonstrate continued compliance with the FCC guidelines.

*** END OF AUTHORIZATION ***

SYSTEMS WITH RELIABILITY, LTD.
Broadcast Antenna and Transmission Systems

PATTERN CERTIFICATION

DIRECTIONAL FM ANTENNA
WDQV
April 2, 2003

Station	:	WDQV
Location	:	Mackinaw City, MI
Frequency	:	88.5 MHz
Channel	:	203
Antenna Model	:	FM10V/2 DA
Maximum Antenna Gain		
Vertical	:	3.329 / 5.224dB
Horizontal	:	0.00016 / -37.981 dB

ANTENNA DESCRIPTION

A custom designed FM10V/2 antenna was used to produce the required directional azimuth pattern. Each antenna bay consists of a vertically polarized dipole-radiating element with a vertical parasitic system. The array is comprised of two bays, that are spaced a full wavelength apart, mounted to a tower pointing **295** degrees true north.

DESCRIPTION OF TEST PROCEDURE

The test antenna consists of a third-scale vertical dipole antenna and parasitic system. This antenna was mounted to a 6-inch model tower with the use of mounting brackets supplied with the finalized antenna. The tower was 20 ft. on a platform. All feed cables are properly grounded during pattern testing. Vertical parasitic elements were used to obtain the desired directional pattern.

The source antenna, a vertical/horizontal dipole Cavity Back Resonator antenna configuration was mounted approximately 100 feet from the test antenna. The source's height was adjusted to provide a uniform field at the test antenna location. The CBR antenna was operated in the transmit mode at a frequency of 265.5 MHz. The antenna under test was rotated in a clockwise direction. A gain reference was taken using a dipole tuned to 265.5 MHz. Nowhere, does the received signal exceed a maximum to minimum ratio of 15 dB.

619 Industrial Park Road, Ebensburg, PA 15931 Tel. 800 762 7743 / 814 472 5436 • Fax 814 472 5552

TEST RESULTS

The attached calculations verify that the **RMS** value of this antenna is ***85.57 %*** of the **RMS** value of the pattern authorized in the related construction permit **BPED-20000121ABS**. The vertical component **RMS** value is ***0.759***.

Azimuth, elevation plots, and associated tabulations of this antenna are included with this package.

Measured vertical polarized directivity:	**1.736 / 2.40 dB**
Measured horizontally polarized directivity:	**1.000 / 0 dB**

Gain in each polarization was calculated using the following relation:

GAIN = *Azimuth Directivity x Elevation Directivity x Polarization Ratio*

Using this relationship along with ratio measured at our testing facilities:

V-Pol. Gain = (1.736)(1.918)(99.9917) = **3.33 / 5.22 dB**
H-Pol. Gain = (1.000)(1.918)(0.0083) = **0.00016 / -37.981 dB**

INSTALLATION AND MOUNTING

The antenna is to be mounted in accordance with the supplied drawings. The antenna center of radiation is to be ***97 meters*** above ground level. The antenna (parasitic system included) aperture is **11.11 feet**. No other antennas are to be mounted within ***10 feet*** of the antenna. No other obstructions other than those specified by original drawings supplied are to be mounted at the same level as the antenna. The antenna is to be oriented ***295 degrees*** true North.

The parasitic system is custom designed to shape and direct the antenna pattern as required. The systems orientation and the mounting details are described in the following drawings:

DRAWING NO.	**TITLE**
0433A00	ORIENTATION
0433C00	ELEVATION
0433A01	FM10V/2 DIPOLE ASSEMBLY
0433A02	FM10V/2 FRONT VIEW
2105A10	TEST RANGE SCHEMATIC

The array shall be mounted according to **DWG. 0433C00**. The parasitic assembly is shown in **DWG.0433A00** and **DWG.0433A02**. Dipole layouts are shown in **DWG.0433A01**. The antenna elements shall be aligned at the same heading as in **DWG.0433A00**. This will ensure that the antenna is oriented properly at 295 degrees.

DOCUMENT EXHIBITS

The following exhibits are included as part of this Certificate of Compliance:

Exhibit 1	Measured Vertical Polarized Azimuth Pattern Measured Field Strength Tabulations (Vertical)
Exhibit 2	Measured Horizontal Polarized Azimuth Pattern Measured Field Strength Tabulations (Horizontal)
Exhibit 3	Elevation Pattern Elevation Tabulations
Exhibit 4	Antenna Data Sheet

TEST EQUIPMENT

Network Analyzer	:	Hewlett Packard Model # 8753C Serial Number : 08753 – 69138 Calibrated 8/26/02, SWR, Inc.
Computer	:	White Mountain 366 Computer
Plotter	:	Hewlett-Packard 7550A
Positioner	:	Orbit Positioner Calibrated 1/10/02, SWR, Inc.

Prepared by:

Harry Turtschanow Jr.
SWR, Inc.

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